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MINNESOTA POLLUTION CONTROL AGENCY ENFORCEMENT DEFERRAL PILOT PROJECT

INTRODUCTION

The United States Environmental Protection Agency (U.S. EPA) and the Minnesota Pollution Control Agency (MPCA) have agreed to conduct an Enforcement Deferral Pilot Project to demonstrate full accountability for State enforcement-lead Superfund sites without Federal oversight/intervention. This Enforcement Deferral Pilot will gather information that can be used to demonstrate MPCA's capability for State authorization and/or referral. The first year of the pilot is Federal fiscal year 1995, from October 1, 1994 through September 30, 1995.

The State of Minnesota has historically played a significant role in the implementation of the Superfund program within Region V. The MPCA has demonstrated both an interest and a willingness to invest its staff and resources into site cleanup activities. Of the 36 currently active National Priorities List (NPL) sites within the State (43 NPL sites total), MPCA has the lead on 26 NPL sites, which is 72%. Of these 26 sites, 20 are being addressed as State-enforcement leads and 6 are State-lead CERCLA fund financed.

In addition, the MPCA has been active in the implementation of the Minnesota Environmental Response and Liability Act (MERLA) of 1983 to investigate and cleanup releases of hazardous substances, pollutants, or contaminants. The MPCA will administer the Enforcement Deferral Pilot through its authority under MERLA.

ENFORCEMENT DEFERRAL PILOT

Under the Enforcement Deferral Pilot, MPCA will assume full responsibility at the following 13 State-enforcement lead sites.

~~Agate Lake~~ *delisted*

Baytown Township ***

General Mills *LTRA*

Joslyn *LTRA*

~~Koch Refining/N. Ren Corp.~~ *(delisted)*

Koppers Coke *in situ*

Kurt Manufacturing *LTRA*

FMC *LTRA*

Nutting Truck and Caster Co. *LTRA*

St. Louis River *

UMRRC *LTRA*

Waite Park Water Supply ** *LTRA*

~~Whittaker~~ *delisted*

~~Windom~~ *delisted*

* Includes Interlake and USX State sites.

** Includes Waite Park Wells, Electric Machinery, and Burlington Northern State sites.

*** Baytown Township was added to the pilot after its start. Boise Cascade - Onan & Medtronic were removed from the original pilot sites.

ENFORCEMENT DEFERRAL PILOT

In June 1995, MPCA and EPA Region 5 signed an agreement whereby the state has assumed full responsibility for 13 state enforcement sites on the NPL, with no federal funding, oversight or intervention. This pilot was developed to demonstrate MPCA's capability to implement CERCLA under some type of delegation. MPCA uses its state legal authority to investigate and cleanup the sites and EPA is not reviewing technical documents, nor concurring on remedy decisions. EPA does not anticipate any federal action as long as the state's remedies are protective of human health and the environment and decisions are not inconsistent with CERCLA and the NCP. For this pilot, MPCA has access to WasteLAN and RP2M, and state staff are entering data on the pilot sites in compliance with federal requirements for data entry, source documentation, internal controls, etc. As of March 1997, MPCA has signed one ROD for a pilot site (St. Louis River soils OU), completed two PCORs (Kurt Mfg. and Joslyn), one FCOR (UMRRC) and one five- year review (Joslyn). One site (Koch Refining) was delisted from the NPL.

LANDFILL CLEANUP PROGRAM

In May 1994, Minnesota initiated a long-term program to cleanup mixed, municipal solid waste landfills. Ten NPL sites are among the 100+ landfills no longer accepting waste that are eligible for the program. The program was intended as an alternative to the Superfund approach to identifying responsible parties, that led to expensive, protracted legal actions among large numbers of PRPs at several NPL sites. The law established a dedicated source of funds to enable MPCA to pay for cleanups at qualified landfills and to reimburse parties who have spent money on landfill cleanup, provided they promise not to sue others to recover their costs. For the 10 NPL sites, EPA agreed to terminate the federal cleanup orders and propose the sites for deletion from the NPL, once MPCA took over responsibility for O&M and future response actions. Region 5 signed an agreement with MPCA that resolves all outstanding EPA cost recovery claims and calls for the state to reimburse EPA for \$4 million of the costs that EPA incurred at the landfills. As of March 1997, EPA has terminated CERCLA 106 orders on each of the 4 NPL sites where EPA had orders in place and has issued notices of deletion from the NPL for 8 of the landfills. To date, MPCA has submitted 2 annual payments to EPA totalling \$1,781 million as reimbursement of past CERCLA costs.